

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Simplify Ownership of PUV Property. (Public)

Sponsors: Unknown.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO SIMPLIFY THE OWNERSHIP REQUIREMENTS OF PRESENT-USE
VALUE PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.2 reads as rewritten:

"§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

(1) Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

(1a) Business entity. – A corporation, a general partnership, a limited partnership, or a limited liability company.

(1b) Farm group. – A group consisting of one or more individuals who are actively engaged in one of the activities described in subdivisions (1),

- (2), or (3) of this section and their relatives. The term 'actively engaged' includes the leasing of land.
- (2) Forestland. – Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit must be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(3), and each tract must be under a sound management program.
- (3) Horticultural land. – Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(2), and each tract must be under a sound management program. If the horticultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent horticultural land or protect water quality of adjacent horticultural land. Land used to grow horticultural and agricultural crops on a rotating basis or where the horticultural crop is set out or planted and harvested within one growing season, may be treated as agricultural land as described in subdivision (1) of this section when there is determined to be no significant difference in the cash rental rates for the land.
- (4) Individually owned. – Owned by one of the following:
- a. An individual.
 - b. Directly or indirectly by individuals in a farm group. An individual is an indirect owner if the individual is a beneficiary of a trust or a member of a business entity. The determination of ownership by an individual in a farm group does not affect the listing requirements in G.S. 105-302.
 - d. A testamentary trust that meets all of the following conditions:
 1. It was created by an individual who transferred to the trust land that qualified in that individual's hands for classification under G.S. 105-277.3.

2. At the date of the creator's death, the creator had no relatives.
 3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).
- (4a) Member. – A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.
- (5) Present-use value. – The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and horticultural land is to be determined by the Use-Value Advisory Board as provided in G.S. 105-277.7.
- (5a) Relative. – Any of the following:
- a. A spouse or the spouse's lineal ancestor or descendant.
 - b. A lineal ancestor or a lineal descendant.
 - c. A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub-subdivision, the term brother or sister includes stepbrother or stepsister.
 - d. An aunt or an uncle.
 - e. A spouse of a person listed in paragraphs a. through d. For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.
- (6) Sound management program. – A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement.
- (7) Unit. – One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105-277.3(a)."

SECTION 2. G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- (1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement

1 for agricultural land and must consist of at least five acres in actual
2 production or produce at least 20,000 pounds of aquatic species for
3 commercial sale annually, regardless of acreage. For all other
4 agricultural land, the tract must meet the income requirement for
5 agricultural land and must consist of at least 10 acres that are in actual
6 production. Land in actual production includes land under
7 improvements used in the commercial production or growing of crops,
8 plants, or animals.

9 To meet the income requirement, agricultural land must, for the
10 three years preceding January 1 of the year for which the benefit of
11 this section is claimed, have produced an average gross income of at
12 least one thousand dollars (\$1,000). Gross income includes income
13 from the sale of the agricultural products produced from the land, any
14 payments received under a governmental soil conservation or land
15 retirement program, and the amount paid to the taxpayer during the
16 taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable
17 Tobacco Reform Act of 2004.

18 (2) Horticultural land. – Individually owned horticultural land consisting
19 of one or more tracts, one of which consists of at least five acres that
20 are in actual production and that, for the three years preceding January
21 1 of the year for which the benefit of this section is claimed, have met
22 the applicable minimum gross income requirement. Land in actual
23 production includes land under improvements used in the commercial
24 production or growing of fruits or vegetables or nursery or floral
25 products. Land that has been used to produce evergreens intended for
26 use as Christmas trees must have met the minimum gross income
27 requirements established by the Department of Revenue for the land.
28 All other horticultural land must have produced an average gross
29 income of at least one thousand dollars (\$1,000). Gross income
30 includes income from the sale of the horticultural products produced
31 from the land and any payments received under a governmental soil
32 conservation or land retirement program.

33 (3) Forestland. – Individually owned forestland consisting of one or more
34 tracts, one of which consists of at least 20 acres that are in actual
35 production and are not included in a farm unit.

36 (b) Individual Ownership Requirements. – In order to come within a
37 classification described in subsection (a) of this section, land owned by an individual
38 must also satisfy one of the following conditions:

39 (1) It is the owner's place of residence.

40 (2) It has been owned by the current owner or a relative of the current
41 owner for the four years preceding January 1 of the year for which the
42 benefit of this section is claimed.

(3) At the time of transfer to the current owner, it qualified for classification in the hands of a farm group that transferred the land to the current owner who was part of the farm group.

(b1) Farm Group Ownership Requirements. – In order to come within a classification described in subsection (a) of this section, land owned by a farm group must have been owned by the farm group or by one of the individuals in the farm group for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed.

(b2) Exception to Ownership Requirements. – Notwithstanding the provisions of subsections (b) and (b1) of this section, land may qualify for classification in the hands of the new owner if all of the conditions listed in either subdivision of this subsection are met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the land.

(1) Continued use. – If the land qualifies for classification in the hands of the new owner under the provisions of this subdivision, then any deferred taxes remain a lien on the land under G.S. 105-277.4(c), the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification. Land qualifies for classification in the hands of the new owner if all of the following conditions are met:

- a. The land was appraised at its present use value at the time title to the land passed to the new owner.
- b. The new owner acquires the land and continues to use the land for the purpose for which it was classified under subsection (a) of this section while under previous ownership.
- c. The new owner has timely filed an application as required by G.S. 105-277.4(a) and has certified that the new owner accepts liability for any deferred taxes and intends to continue the present use of the land.

(2) Expansion of existing unit. – Land qualifies for classification in the hands of the new owner if, at the time title passed to the new owner, the land was not appraised at its present-use value but was being used for the same purpose and was eligible for appraisal at its present-use value as other land already owned by the new owner and classified under subsection (a) of this section. The new owner must timely file an application as required by G.S. 105-277.4(a).

(c) Repealed by Session Laws 1995, c. 454, s. 2.

(d) Exception for Conservation Reserve Program. – Land enrolled in the federal Conservation Reserve Program authorized by 16 U.S.C. Chapter 58 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program must be assessed as

1 agricultural land if it is planted in vegetation other than trees, or as forestland if it is
2 planted in trees.

3 (d1) Exception for Easements on Qualified Conservation Lands Previously
4 Appraised at Use Value. – Property that is appraised at its present-use value under G.S.
5 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as
6 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as the property is subject to
7 an enforceable conservation easement that would qualify for the conservation tax credit
8 provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production
9 or income requirements of this section. Notwithstanding G.S. 105-277.3(b) and (b1),
10 subsequent transfer of the property does not extinguish its present-use value eligibility
11 as long as the property remains subject to an enforceable conservation easement that
12 qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S.
13 105-151.12. The exception provided in this subsection applies only to that part of the
14 property that is subject to the easement.

15 (e) Exception for Turkey Disease. – Agricultural land that meets all of the
16 following conditions is considered to be in actual production and to meet the minimum
17 gross income requirements:

18 (1) The land was in actual production in turkey growing within the
19 preceding two years and qualified for present use value treatment
20 while it was in actual production.

21 (2) The land was taken out of actual production in turkey growing solely
22 for health and safety considerations due to the presence of Poult
23 Enteritis Mortality Syndrome among turkeys in the same county or a
24 neighboring county.

25 (3) The land is otherwise eligible for present use value treatment.

26 (f) Sound Management Program for Agricultural Land and Horticultural Land. –
27 If the property owner demonstrates any one of the following factors with respect to
28 agricultural land or horticultural land, then the land is operated under a sound
29 management program:

30 (1) Enrollment in and compliance with an agency-administered and
31 approved farm management plan.

32 (2) Compliance with a set of best management practices.

33 (3) Compliance with a minimum gross income per acre test.

34 (4) Evidence of net income from the farm operation.

35 (5) Evidence that farming is the farm operator's principal source of
36 income.

37 (6) Certification by a recognized agricultural or horticultural agency
38 within the county that the land is operated under a sound management
39 program.

40 Operation under a sound management program may also be demonstrated by evidence
41 of other similar factors. As long as a farm operator meets the sound management
42 requirements, it is irrelevant whether the property owner received income or rent from
43 the farm operator.

1 (g) Sound Management Program for Forestland. – If the owner of forestland
2 demonstrates that the forestland complies with a written sound forest management plan
3 for the production and sale of forest products, then the forestland is operated under a
4 sound management program."

5 **SECTION 3.** This act is effective for taxes imposed for taxable years
6 beginning on or after July 1, 2008. Notwithstanding G.S. 105-282.1, an application
7 submitted for the 2008-2009 tax year under G.S. 105-277.4 for the classification of land
8 owned by a farm group is considered timely if it is filed on or before September 1,
9 2008.